

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Bernice Asamoah

13 CV 6097

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

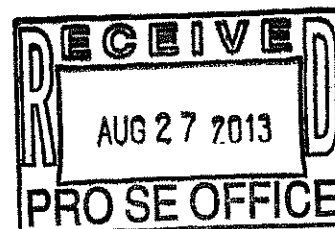
BronxWorks

COMPLAINT  
FOR EMPLOYMENT  
DISCRIMINATION

Jury Trial: ☐ Yes ☐ No

(check one)

(In the space above enter the full name(s) of the defendant(s).  
If you cannot fit the names of all of the defendants in the space  
provided, please write "see attached" in the space above and  
attach an additional sheet of paper with the full list of names.  
Typically, the company or organization named in your charge  
to the Equal Employment Opportunity Commission should be  
named as a defendant. Addresses should not be included here.)



This action is brought for discrimination in employment pursuant to: (check only those that apply)

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Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

*NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.*

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Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634.

*NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.*

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Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117.

*NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.*

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New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

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New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 to 131 (actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status).

**I. Parties in this complaint:**

- A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Bernice Asamoah  
 Street Address 95 W 162 Street Apt #1  
 County, City Bronx  
 State & Zip Code NY 10452  
 Telephone Number 646 702 2703

- B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant Name BronxWorks  
 Street Address 60 East Tremont  
 County, City Bronx  
 State & Zip Code NY 10453  
 Telephone Number \_\_\_\_\_

- C. The address at which I sought employment or was employed by the defendant(s) is:

Employer BronxWorks: Living Room Homeless Outreach Team  
 Street Address 800 Barretto Street  
 County, City Bronx  
 State & Zip Code NY 10474  
 Telephone Number 718 893 3606

**II. Statement of Claim:**

State as briefly as possible the facts of your case, including relevant dates and events. Describe how you were discriminated against. If you are pursuing claims under other federal or state statutes, you should include facts to support those claims. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. The discriminatory conduct of which I complain in this action includes: (check only those that apply)

\_\_\_\_\_ Failure to hire me.  
 \_\_\_\_\_ Termination of my employment.  
☒ Failure to promote me.  
 \_\_\_\_\_ Failure to accommodate my disability.  
 \_\_\_\_\_ Unequal terms and conditions of my employment.

☒

Retaliation.

Other acts (specify): \_\_\_\_\_

*Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.*

- B. It is my best recollection that the alleged discriminatory acts occurred on: Jan 25, 2012  
March 1, 2012  
 Date(s)

- C. I believe that defendant(s) (check one):

☒

is still committing these acts against me.

☐

is not still committing these acts against me.

- D. Defendant(s) discriminated against me based on my (check only those that apply and explain):

☒

race

African American☐

color

☐

gender/sex

☐

religion

☐

national origin

☐

age.

My date of birth is \_\_\_\_\_ (Give your date of birth only if you are asserting a claim of age discrimination.)

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disability or perceived disability, \_\_\_\_\_ (specify)

- E. The facts of my case are as follow (attach additional sheets as necessary):

Please see attachment

*Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights or the New York City Commission on Human Rights.*

### III. Exhaustion of Federal Administrative Remedies:

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding defendant's alleged discriminatory conduct on: March 6, 2012 (Date).

B. The Equal Employment Opportunity Commission (check one):

☒

has not issued a Notice of Right to Sue letter.

issued a Notice of Right to Sue letter, which I received on 5/31/13 (Date).

*Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.*

C. Only litigants alleging age discrimination must answer this Question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (check one):

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

#### IV. Relief:

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs, as follows:

I am requesting all  
Wages that I would have received if I was promoted on  
January 25, 2012 instead of April 2012. I am also requesting  
 (Describe relief sought, including amount of damages, if any, and the basis for such relief.)  
BronxWorks to cover the cost of ~~one~~ Therapy. My self esteem  
and professional confidence has been greatly damaged. ~~irreparable~~  
 I declare under penalty of perjury that the foregoing is true and correct.

Signed this 27 day of August, 2013.

Signature of Plaintiff

Address

Denise Beaulieu  
95 W 162 Street Apt #1  
Bronx, NY 10452

Telephone Number

Fax Number (if you have one)

646-702-2703

I was hired by BronxWorks as a Case Manager for their "Living Room Drop-In Center" on 08/17/09. I held this position from 08/17/09 - 04/25/12. During my time in this position, I received good employee evaluations from my supervisor, Ms. Leticia Abad, and I never received any write-ups. I had a great working relationship with my supervisor and co-workers.

On December 9, 2012, I learned that there was an opening for the position of Data Manager. I expressed my interest for this position in person to the Director for the "Living Room Drop-In Center" who was also responsible for hiring a candidate. The Director's name is Noel Concepcion. I was so cheerful when I verbally expressed my interest for this position. His response to me was that the position is very competitive, ~~as with~~ He made this statement in a way to discourage me from applying. I told him that I would submit a resume, ~~but~~ ~~and~~ he declined and told me to wait for further instructions. After this brief meeting, I sent an email to formally express my interest for this position. <sup>and all the candidates for the position</sup>

On 12/29/12, Mr. Concepcion sent me an email with a Microsoft Excel exercise that was intended to measure each applicants' skills. The deadline for this exercise was 01/04/12. I was on vacation ~~before~~ <sup>when</sup> this assignment was sent, and I returned back to the office on 01/03/12. ~~I was not~~ Mr. Concepcion was aware that I was on vacation, but he still chose to

to send this assignment, which gave all the other applicants an advantage because they had more time than me to complete the assignment. I had ~~one~~<sup>two</sup> days to complete the assignment and submitted it by the deadline - 1/4/12.

On 01/13/12 I was interviewed with only about a three hour notice by Mr. Concepcion. On 01/25/12, I was informed that the position was given to a white male who is less qualified than I am and who has less experience. Mr. Concepcion said that he gave this candidate, Mr. Robert Jones the position because he was "a bit more timely & to the 'T'."

On March 1, 2012, I was informed that the position of Program Coordinator was given to a white female who was less qualified and has less experienced. I applied for this position on Jan 25, 2012. Mr. Concepcion also refused to take my resume for this position when I had applied. His reason for given this candidate, Ms. Lisa Porcella, the position was "She was a bit more excited about the position & worked a little more in this area."

On Several weeks later, Ms. Lisa Porcella resigned from the position, and then it was offered to me. I accepted the position, but experienced retaliation. The supervisors treated me poorly. My charge of Discrimination on the basis of race was filed with EEOC on March 6, 2012.





## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Bernice Asamoah**  
**95 W. 162nd St.**  
**Apartment 1**  
**Bronx, NY 10452**

From: **New York District Office**  
**33 Whitehall Street**  
**5th Floor**  
**New York, NY 10004**



On behalf of person(s) aggrieved whose identity is  
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

520-2012-01391

**Hernan Morales,**  
**Investigator**

(212) 336-3782

## THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

## - NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

*Kevin Berry*  
 Kevin J. Berry,  
 District Director

5/31/13

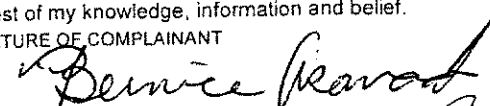
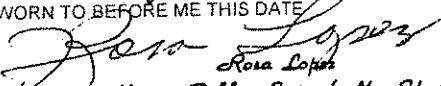
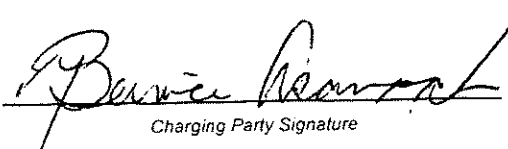
(Date Mailed)

Enclosures(s)

cc:

**Eileen Torres**  
**General Counsel**  
**BRONXWORKS**  
**60 E. Tremont Avenue**  
**Bronx, NY 10453**



<b>CHARGE OF DISCRIMINATION</b> <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To:      Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> FEPA  <input checked="" type="checkbox"/> EEOC         </div> <div style="text-align: right;"> <b>520-2012-01391</b> </div> </div>	
<b>New York State Division Of Human Rights</b> and EEOC <small>State or local Agency, if any</small>			
Name (indicate Mr., Ms., Mrs.) <b>Ms. Bernice Asamoah</b>		Home Phone (Incl. Area Code)	Date of Birth
Street Address <b>2685 Creston Avenue, Bronx, NY 10468</b>		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>BRONXWORKS</b>		No. Employees, Members <b>201 - 500 600</b>	Phone No. (Include Area Code)
Street Address <b>60 E. Tremont Avenue, Bronx, NY 10453</b>		City, State and ZIP Code	
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;"><input checked="" type="checkbox"/> RACE</div> <div style="width: 50%;"><input type="checkbox"/> COLOR</div> <div style="width: 50%;"><input type="checkbox"/> SEX</div> <div style="width: 50%;"><input type="checkbox"/> RELIGION</div> <div style="width: 50%;"><input type="checkbox"/> NATIONAL ORIGIN</div> <div style="width: 50%;"><input type="checkbox"/> RETALIATION</div> <div style="width: 50%;"><input type="checkbox"/> AGE</div> <div style="width: 50%;"><input type="checkbox"/> DISABILITY</div> <div style="width: 50%;"><input type="checkbox"/> GENETIC INFORMATION</div> <div style="width: 50%;"><input type="checkbox"/> OTHER (Specify)</div> </div>		DATE(S) DISCRIMINATION TOOK PLACE Earliest      Latest <div style="text-align: right;"> <b>1/25/12</b>  <b>3/1/12</b> </div> <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).  <p>I, Bernice Asamoah (Black/Female), have been employed by the above named entity since August 17, 2009 as a case manager. At all relevant times my performance has been satisfactory or better.</p> <p>In December of 2011 I learned that there was an opening for the position of Data Manager. I applied to this position on January 4, 2012 and was interviewed on January 13, 2012 with no warning of when the interview would be held. Mr. Concepcion told me during the interview that timeliness was a concern because he had heard that I had been late in submitting work product from a previous supervisor. This was untrue, but as the supervisor was recently deceased, I could not get clarification.</p> <p>On January 25, 2012 I was informed that the position of Data Manager was given to a white male who is less qualified than I am and who has less experience. Black employees are routinely treated differently than white employees, who receive preferential treatment. I attempted to reach out to Human Resources to discuss this issue, but I have not heard back from them for 3 weeks. By this time, I had reached out to EEOC. On March 1, 2012 I was informed that the position of Program Coordinator was given to a white female who is less qualified and has less experience. I applied for this position on January 25, 2012. Based on the foregoing, I believe I was discriminated against on the basis of my race when the Respondent gave the position of Data Manager to a less qualified, white individual, in violation of Title VII of the Civil Rights Act of 1964 and other relevant state and local statutes.</p>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year) <b>3/6/2012</b>  Notary Public, State of New York No. 0160907093 Qualified in Bronx County Commission Expires March 2014	
<b>3/6/2012</b>  Date      Charging Party Signature			

**PRIVACY ACT STATEMENT:** Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
2. **AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
3. **PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
4. **ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
5. **WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

#### NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

#### NOTICE OF NON-RETALIATION REQUIREMENTS

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.